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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,162	09/23/2002	Diamantino Manuel Fidalgo	P00574-US1	4874

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BARLOW, JOSEPHS & HOLMES, LTD.  
101 DYER STREET  
5TH FLOOR  
PROVIDENCE, RI 02903

EXAMINER

JOHNSON, JONATHAN J

ART UNIT	PAPER NUMBER
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1725

DATE MAILED: 01/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/065,162

Applicant(s)

FIDALGO, DIAMANTINO MANUE

Examiner

Jonathan Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 October 2003.
- 2a) ☒ This action is **FINAL**.      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-9 and 11-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-9 and 11-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \*   c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States..

Claims 1, 2, 4 and 6-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Duley et al. (4,933,205). With respect to Claim 1, Duley et al. teach providing a polymeric web material (Column 2, Lines 43-45) having a surface, said surface having at least one shaped pattern of an article (Figure 6b, item 60); and directing a laser beam along the shaped pattern so that the beam cuts completely through the web (col. 4, ll. 30-40) and produces a cut-out article having a surface substantially free of flashing (Column 2, Lines 40-65).

With respect to Claim 2, the teachings of Duley et al. are the same as relied upon in the rejection of Claim 1. Duley et al. teach the web material is in the form of a sheet (Figure 6b, item 24).

With respect to Claim 4, the teachings of Duley et al. are the same as relied upon in the rejection of Claim 3. Duley et al. teach the polymeric sheet comprises a polymer selected from the group consisting of polycarbonates, polyolefins, acrylics, vinyls, polyesters, and elastomers (Column 2, Lines 43-45 and column 1, Lines 50-61).

With respect to Claim 6, the teachings of Duley et al. are the same as relied upon in the rejection of Claim 1. Duley et al. teach the surface of the web material has multiple shaped patterns of articles (Column 4, Lines 25-55).

With respect to Claim 7, the teachings of Duley et al. are the same as relied upon in the rejection of Claim 6. Duley et al. teach the shaped articles are in the form of O-rings (Column 4, Line 33).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8, 9, 11 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duley et al. (4,933,205) in view of Duffin (6,201,214). With respect to Claim 8, Duley et al. teach providing a polymeric web material (Column 2, Lines 43-45) having a surface, said surface having at least one shaped pattern of an article (Figure 6b, item 60); positioning the web material on a staging platform (Figure 1, item 12); and directing a laser beam along the shaped pattern so that the beam cuts completely through the web (col. 4, ll. 30-40) and produce a cut article having a surface substantially free of flashing (Column 2, Lines 40-65). Duffin teaches using a camera optical system to locate the shaped pattern on the web material (Column 3, Lines 1-20). It would

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have been obvious to one of ordinary skill in the art at the time of the invention to modify the foam of Duley et al. to utilize a camera optical system to direct the laser beam in order to access and ensure the quality of the workpiece (Duffin column 3, Lines 1-20).

With respect to Claim 9, the teachings of Duley et al. and Duffin are the same as relied upon in the rejection of Claim 8. Duley et al. teach the web material is in the form of a sheet (Figure 6b, item 24).

With respect to Claim 11, the teachings of Duley et al. and Duffin are the same as relied upon in the rejection of Claim 10. Duley et al. teach the polymeric sheet comprises a polymer selected from the group consisting of polycarbonates, polyolefins, acrylics, vinyls, polyesters, and elastomers (Column 2, Lines 43-45 and column 1, Lines 50-61).

With respect to Claim 13 the teachings of Duley et al. and Duffin are the same as relied upon in the rejection of Claim 8. Duley et al. teach a Gantry system is used to position the web material and direct the laser beam (Column 2, Lines 15-30).

With respect to Claim 14 the teachings of Duley et al. and Duffin are the same as relied upon in the rejection of Claim 8. Duley et al. teach a X-Y positioning system is used to position the web material and direct the laser beam (Column 2, Lines 15-30)..

With respect to Claim 15 the teachings of Duley et al. and Duffin are the same as relied upon in the rejection of Claim 8. Duffin teaches the camera optical system and laser beam are controlled by a computer (Figure 1, item 10). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the foam of Duley et al. to utilize a camera in order to access and ensure the quality of the workpiece (Duffin column 2, Lines 35-65).

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duley et al. and Duffin as applied in Claim 10 above and further in view of Narayan et al. (6,559,196). Narayan et al. teach the polymeric sheet is an elastomeric sheet comprising an elastomeric polymer selected from the group consisting of styrene-butadiene copolymers, polychloroprene, ethylene-propylene copolymers, silicones, and polyurethanes (Column 10, Lines 35-46). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the foam in the invention Duley et al. and Duffin to utilize the polyurethane foam in order to improve fire resistance (Narayan et al. Column 1, Lines 14-65).

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duley et al. as applied in Claim 3 above and further in view of Narayan et al. (6,559,196). Narayan et al. teach the polymeric sheet is an elastomeric sheet comprising an elastomeric polymer selected from the group consisting of styrene-butadiene copolymers, polychloroprene, ethylene-propylene copolymers, silicones, and polyurethanes (Column 10, Lines 35-46). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the foam of Duley et al.

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to utilize the polyurethane foam in order to improve fire resistance (Narayan et al. Column 1, Lines 14-65).

***Response to Arguments***

In response to applicant's argument that Duley does not require accurate control to use his process, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the foam of Duley et al. to utilize a camera optical system to direct the laser beam in order to access and ensure the quality of the workpiece (Duffin column 3, Lines 1-20).

*Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Johnson whose telephone number is 703-308-0667. The examiner can normally be reached on M-Th 7AM-5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on 703-308-3318. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.

jj  
December 21, 2003

Riley Stone A.U. 1725  
*Riley Stone* 1/5/04